

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG.) NO.2218 OF 2004

Bharat B. Satpute & Ors.

..Petitioners.

Vs.

Director of Technical Education
and Research & anr.

..Respondents.

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Mr. M.M. Vashi for the Petitioners.

Mr. A.A. Kumbhakoni, Special counsel with Ms. Prabhu, A. G. P.
for the Respondents.

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**CORAM : DALVEER BHANDARI, C.J.&
DR.D.Y.CHANDRACHUD, J,**

11th August, 2004.

JUDGMENT (Per [Dr.D.Y.Chandrachud, J.](#)):

1. Rule, made returnable forthwith. Learned counsel for the Respondents waives service. By consent taken up for hearing and final disposal.

2. The four Petitioners before the Court are students belonging to the reserved category and seek admission to the post graduate course in Master of Business Administration/ Master of

Management Studies. Admissions are centralized under the administrative control of the Directorate of Technical Education. Admissions are granted inter alia on the basis of a Common Entrance Test.

3. Rule 4.1. of the Rules prescribed by the First Respondent provides that 50% of the total seats are reserved for candidates belonging to the Backward Classes. Note 2 of Rule 4.1 prescribes that amongst candidates belonging to the Backward Classes those in the Nomadic Tribes 2, Nomadic Tribes 3 and OBC categories should produce a Non-Creamy Layer Certificate (NCLC) issued by the Sub Divisional Officer or Deputy Collector of the district, in addition to a caste certificate. Rule 5.3 provides a centralized admissions process. Thereunder, a student is in the first instance required to submit an application form *on-line* through a website. The application is to be submitted through any computer connected to the internet or through any Application Receipt Center (ARC), a list whereof was set out in Annexure III to the information brochure. The student is required to furnish all the

relevant information that has been sought and, if he belongs to a Backward Class category, to mention this fact in the application form sent on-line. Upon filling in an on-line application, an application ID is furnished to each student. Thereafter, all students who had submitted their applications on-line are required to confirm the submission of the application form at any convenient ARC by submitting attested copies of supporting documents. To substantiate a claim of being a Backward Class candidate, the student is required to submit attested true copies of the documents mentioned in Rule 5.4. These include a caste certificate and a Non-Creamy Layer Certificate. After the documents are verified at the ARC, the application of the student is processed for admission and seats are allotted on the basis of the position in the merit list secured by the student in the CET.

4. The undisputed position before the Court is that the Petitioners are Backward Class candidates. Each of the Petitioners indicated his category while submitting an on-line application. The documents which were submitted by the

Petitioners in support of their claims of belonging to a reserved category were duly verified at the concerned ARC. There is no dispute about the fact that each of the Petitioners produced a caste certificate as well as a Non-Creamy Layer Certificate as required by the Rules. About this factual position, there is no dispute before the Court.

5. On 5th August, 2004 when the allotment of seats began, it was found that in the allotment sheet, under the entry "Category" the Petitioners were shown as *open category* candidates. However, against the entry "Type of candidate", the names of the Petitioners were shown as belonging to "M.S. Reserved", an abbreviation for 'Maharashtra State Reserved'. Though the Petitioners were shown to belong to the open category in the allotment sheet, their grievance is that no seat was allotted to the Petitioners even in the open category. In so far as the reserved category is concerned, Backward Class candidates who had secured lesser marks than the Petitioners obtained admission, whereas the Petitioners were deprived of admissions in the Backward Class category. The

admissions process commenced on 6th August, 2004 and finding that the names of the Petitioners have not been included, the Petitioners and their parents met the First Respondent and handed over a written representation. The Petitioners were, however, informed that a decision would be taken on 10th or 11th August, 2004. The grievance of the Petitioners now is that their claim to admission as students belonging to the Backward Class has been overlooked, without any justifiable basis. This, according to the Petitioners despite the fact that they have produced the caste validity certificate and the Non-Creamy Layer Certificate which documents were duly verified at the ARC set up by the Respondents. The Petitioners apprehended that their exclusion was on account of a mistake or malfunctioning in the computers of the First Respondent and moved this Court in proceedings under Article 226 of the Constitution.

6. The relief which has been sought is for the issuance of a Writ of Mandamus directing the Respondents to hold the centralized admissions process afresh by considering the claim of

the Petitioners on merits in the Backward Class category in accordance with their position in the merit list. In support of the Petitions, learned counsel appearing on behalf of the Petitioners has relied upon the provisions of the Rules contained in the brochure issued by the First Respondent. Counsel submitted that once the documents which were produced by the Petitioners were duly verified at the ARC by the competent admissions officer, the next step was for the ARC to make an on-line entry on the website of the receipt of the required documents and to update the receipt of a demand draft or pay order in the on-line records of the candidate, under the Rules. Accordingly after this process was carried out, the receipt of a payment of Rs.500/- that was prescribed for reserved category candidates was duly verified as having been made. Thereafter, there was no occasion for deleting the names of the Petitioners from the candidates belonging to the reserved category and for not considering their claims on that basis.

7. On the other hand, on behalf of the Respondents it has

been sought to be urged that in the on-line application form, one of the entries which every student was required to fill up was whether he was applying in a reserved category. If so, the category was required to be mentioned. The student had to state whether he had a Non-Creamy Layer Certificate, this being applicable for students from the OBC, NT 2, and NT 3 categories. In the present case, it has been urged on behalf of the Respondents that in respect of this entry, the Petitioners filled out an answer in the negative and that consequently their applications were not considered since they had disclosed that they did not have a Non-Creamy Layer Certificate.

8. In considering the correctness of the rival submissions which have been urged before us, it would be necessary to broadly recapitulate the admissions procedure that has been prescribed by the Respondents. The admissions procedure is described as the “Centralised Allotment Process” (CAP) and is broadly comprehended in eight stages, from Stage-I to Stage-VIII. These stages are as follows:

Stage-I: Sale of information brochure.

Stage-II : Online submission of application form.

Stage-III : Confirmation of submission of application form.

Stage-IV: Appearing for the CET, Group Discussion and Personal Interview.

Stage-V: Display of merit list.

Stage-VI: Submission of online option form.

Stage-VII: Confirmation of submission of option form.

Stage-VIII: Display of allotment, reporting to the Institute and confirmation of admission.

9. Initially, each candidate was required to submit his or her application form on online through a computer connected to the internet or from any of the ARC's mentioned in Annexure-3 to the brochure. Each candidate would be allotted an Application-ID from which he or she could log in to the online admission system to check the status of the processing of his or her application form. Stage-III is crucial to the present case and it would be material to extract what has been laid down therein in its entirety.

“Stage -III : Confirmation of Submission of Application Form

All the candidates who have submitted their application online through internet are required to confirm the submission of application form at any convenient ARCs by submitting the attested copies of the supporting documents and application fee DD as mentioned above.

For the confirmation of submission of the Application Form at ARC, all the candidates are required to submit the supporting documents to substantiate claim against caste, type of candidature and attested true copies of the documents as mentioned in rule 5.4.

The candidate will write his/her name, Application ID, and address on the reverse side of the application fee DD/Pay Order.

Admission Officer at ARC will do the technical and administrative scrutiny of the online submitted application form along with the required documents; It will be checked whether the candidate has correctly filled the application form and submitted the required documents. If the admission officer finds that the supporting documents are not enough to claim for a valid candidature then the submitted application form will not be accepted for any further processing.

Admission officer at ARC will make online entry (on the website) of the receipt of the required documents and update the receipt of DD/Pay Order in the candidate's online records.

Online software application hosted on the website will compile and generate an acknowledgement cum call

letter for the CET, GD and PI.

Admission officer at ARC will print 2 copies of the acknowledgment cum call letter and give one copy of this acknowledgement cum letter to the candidate and will keep one copy for the office record.

The exam seat number, date, time, and venue of the CET 2004 written examination, GD and PI will be printed on the call letter along with candidate's name, address, and space for photograph and signature.

The Candidate will affix his/her photograph with signature on the call letter duly attested by the admission officer.

The attested true copies of the required documents to be submitted by the candidate will be enlisted on the printout of the acknowledgment cum call letter.

The acknowledgement letter will also include discrepancy, if any, in submission of required documents or the fee submitted by DD/Pay Order on the printout of the acknowledgement letter.

Applications received through online submission will only be considered valid for further processing only after the confirmation of the submission of Application form at the ARCs." (emphasis supplied).

10. In the present case, in view of the urgency of the matter, the petition has been proceeded for the hearing without an affidavit in reply by the Respondents. However, Learned Counsel

appearing on behalf of the Respondents, has received detailed instructions which have been placed before the Court in the form of oral submissions and we have also permitted Counsel to rely on such other documentary material as was sought to be produced before us. Counsel for the Petitioners had no objection to this course of action being followed, since the admissions process is already underway and a decision in these proceedings has to be arrived at on an urgent and expeditious basis.

11. For the purpose of these proceedings, we have proceeded on the basis of the submission of the Respondents that while filling in the online application forms, the Petitioners answered the query as to whether they had a Non-Creamy Layer Certificate in the negative. There is no dispute about the factual position that the Petitioners, however, disclosed the fact that they belong to a Reserved Category and set out in the relevant entry in the application form the category to which they belong. The Rules formulated by the first Respondent postulate in Stage-III the confirmation of the submission of an application form. All

candidates who had submitted their applications online through the internet were required to confirm the submission of the application form at any of the stipulated ARC's by submitting attested copies of the supporting documents and the application. In order to substantiate claims against caste, candidates were required to submit attested true copies of the documents mentioned in Rule 5.4. The Admissions Officer at the ARC would carry out a "technical and administrative scrutiny" of the online application along with the required documents. The Officer would verify whether the candidate had correctly filled up the application form and had submitted the required documents. If the supporting documents were not sufficient, the application form was not to be accepted for further processing. On the receipt of the required documents and payments, the Admissions Officer at the ARC would make an online entry of the receipt of the demand draft or pay order on the candidate's online records. In the present case, there is no factual dispute about the position that each of the Petitioners reported at one of the designated ARC's for confirmation of the submission of the application form online and

that they produced the caste certificate as required as well as the Non-Creamy Layer Certificate before the Admissions Officer. Each of the Petitioners paid the prescribed fee of Rs.500/- for reserved category candidates. The fee for open category candidates was Rs.700/-. Obviously, therefore, the payment of the fee of Rs.500/- was certified on the basis of the verification that the Petitioners were genuine Backward Class Candidates. That being the position, we find no valid reason whatsoever as to why the names of the Petitioners were excluded from consideration as candidates belonging to the Reserved Category. We have, as already noted earlier, proceeded on the assumption that in the online application form, the Petitioners had answered in the negative, the query as to whether they possessed the Non-Creamy Layer Certificate. That, however, was not the end of the matter because each of the students who submitted an online application form was required to present himself or herself to the designated ARC with all supporting documents. Even if a student makes a claim of belonging to a reserved category, that claim has to be duly verified with reference to supporting documents by the Admissions

Officer at the ARC. Counsel for the Respondents does not dispute that this was in fact done in the case of the Petitioners. That being the position, it is impossible for the Court to subscribe to the non-consideration of the claims of the Petitioners for admission on the basis of their position in the merit list. We wish to reiterate at the cost of repetition that, as a matter of fact, the status of the Petitioners as belonging to a Backward Class is not disputed nor indeed is it disputed that the Petitioners have submitted all the required documents including the caste certificate and the Non-Creamy Layer Certificate. It may well have happened, as is sought to be urged on behalf of the Respondents, that on the basis of the original application forms that were submitted by the Petitioners, their claims were disregarded. Whatever be the nature of the online error or mistake of the authorities, we are of the view that once the claim of the Petitioners to belong to a reserved category was duly verified with reference to supporting documents at the ARC, there was no basis or justification for denying them consideration in the admissions process, on that basis. Stage-III involved a confirmation of the submission of the application form

and a verification of supporting documents. Once that was done, the admissions officer had to make an online entry on the website of the receipt of required documents and of the requisite payment. Thereafter, the claim of the Petitioners could not have been disregarded on the basis of what was stated online in the application form.

12. Learned Counsel appearing on behalf of the respondents has urged that the Respondents are at this stage prepared to place the Petitioners at the bottom of the list of Backward Class Candidates and to consider their claims on that basis. Counsel submitted that in all there are 276 such candidates who had submitted NCL certificates at the reporting centre but whose claims have been rejected in the data base. We are of the view that it would be totally arbitrary and contrary to all norms of justice and fairness to deny the Petitioners and similarly situated students the benefit of a consideration of their claims at the appropriate position in the merit list in accordance with law. The Petitioners and other similarly situated candidates are not at fault, once their claims have

been duly verified in the reporting centre. In the circumstances, it would be necessary to direct that the Respondents shall forthwith consider the claims of the Petitioners and other similarly situated candidates with reference to the appropriate position of the concerned candidate in the merit list. We, however, clarify that the benefit of the aforesaid direction shall enure only to those candidates who have duly supplied all required documentary evidence in support of their claim to belong to a Reserved Category at the time of the scrutiny of the application form at the ARC. Counsel for the Respondents submitted that as a result of this, hardship would be caused to students to whom an allotment has been made already. This, in our view, cannot be any answer. Merit has to be the criterion. Ultimately, each student has to be considered for admission in accordance with his position in the merit list and students belonging to the Backward Class Category must also be assessed in the admissions process with reference to their position *inter se* in the merit list. The suggestion which has been made on behalf of the Respondents cannot be accepted because the result thereof would be to downgrade the claims of the

Petitioners and other similarly situated students in preference to other students who may be less meritorious. Merit has to prevail and even in the case of admissions to the reserved category, the authorities have to be guided by merit *inter se*.

13. In the circumstances, we allow this petition by directing that the claims of the Petitioners and other similarly situated candidates for admission against seats in the Reserved Category shall be considered afresh with reference to their relative positions in the merit list, in accordance with law. We, however, clarify that the benefit of this direction shall be available only to those candidates who have duly submitted all required documents in support of the claim to belong to a Reserved Category at the time of scrutiny at the ARC and whose claim has been duly verified by the Admissions Officer at the concerned ARC.

14. The petition shall stand disposed of in the aforesaid terms. In the circumstances, there shall be no order as to costs.

15. The parties be supplied authenticated copies.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.

